TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

SB 8 – HB 714

February 10, 2017

SUMMARY OF BILL: Changes the statutory apportionment formula, for tax years beginning on or after July 1, 2017, used to calculate the portion of net earnings and net worth apportioned to Tennessee for franchise and excise (F&E) tax purposes from a three-factor formula to a single-sales-factor formula.

ESTIMATED FISCAL IMPACT:

Decree State Revenue – $12,233,000/FY17-18
$48,195,500/FY18-19
$90,795,500/FY19-20
$73,148,000/FY20-21
$67,500,000/FY21-22 and Subsequent Years

Increase State Expenditures – $383,800/FY17-18

Other Fiscal Impact – Secondary economic impacts may occur as a result of this bill. Due to multiple unknown factors, fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.

Assumptions:

- Under current law, a taxpayer's net earnings and net worth are apportioned to this state using a three-factor formula that considers the taxpayer's sales, property, and payroll, with the sales factor triple-weighted.
- This bill will, for tax years beginning on or after July 1, 2017, eliminate the property and payroll factors and implement the single-sales-factor formula, where net earnings and net worth are apportioned to this state based on the taxpayer's Tennessee sales as a proportion of its total sales in the United States.
- The estimate of the fiscal impact of this bill is based on the Department of Revenue's static analysis of F&E tax returns for tax periods ending in 2015, adjusted for any impact of the Revenue Modernization Act of 2015 that would occur under current law for tax years beginning on or after July 1, 2016, due to the Act's change of the apportionment formula from a double-weighted sales factor to a triple-weighted sales factor. The Fiscal

Review Committee staff does not have access to this data and analysis and cannot independently verify their accuracy.

- A taxpayer's F&E tax liability will be directly impacted by the change to the single-sales-factor formula, unless 100 percent of the taxpayer's sales, property and payroll are located in Tennessee. Further, the taxpayer's F&E tax liability will also be dependent on several other factors, including the amount of loss carryover from prior years and the amount of available tax credits.
- In general, and not accounting for loss carryovers and tax credits, the change to a single-sales-factor formula will increase the F&E tax liability for taxpayers where the sales factor is greater than the property and payroll factors, and will decrease the F&E tax liability for taxpayers where the sales factor is less than the property and payroll factors.
- The change to a single-sales-factor formula will not have an immediate impact on the amount of F&E taxes owed to the state for taxpayers who offset 100 percent of the tax liability as a result of loss carryovers and tax credits, particularly industrial machinery and jobs tax credits. However, since the tax base for these taxpayers, who typically have relatively larger property and payroll factors and relatively smaller sales factors, will be lower as a result of the formula change, they will have more credits to carryover to future years.
- The Department reports that the change to a single-sales-factor formula will increase F&E tax liability for approximately 15,000 taxpayers and decrease the liability for approximately 7,700 taxpayers, for a net recurring decrease in F&E tax collections of $67,500,000.
- However, due to the estimated payment requirements of the current law, anticipated taxpayer response to the tax formula change, and the fact that the F&E tax year is based on the taxpayer's fiscal year, the initial impact of changing the apportionment formula is spread over several state fiscal years. The resulting decrease in state revenue is estimated to be: $12,233,000 in FY17-18; $48,195,500 in FY18-19; $90,795,500 in FY19-20; $73,148,000 in FY20-21; and $67,500,000 in FY21-22 and subsequent years.
- The one-time increase in state expenditures in FY17-18 to accomplish all of the technology changes required by this bill is estimated to be $383,800.
- There could be subsequent impacts on state and local government revenue and expenditures as a result of secondary economic impacts prompted by the passage of this bill. Due to multiple unknown factors, the fiscal impacts attributable to such secondary impacts cannot be quantified with reasonable certainty.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista M. Lee

Krista M. Lee, Executive Director

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